



General Assembly

February Session, 2010

***Raised Bill No. 489***

LCO No. 2593

\* \_\_\_\_SB00489INS\_\_042110\_\_ \*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING UNINSURED AND UNDERINSURED  
MOTORIST COVERAGE FOR BODILY INJURY TO A NAMED  
INSURED OR RELATIVE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-336 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) (1) Each automobile liability insurance policy shall provide  
4 insurance, herein called uninsured and underinsured motorist  
5 coverage, in accordance with the regulations adopted pursuant to  
6 section 38a-334, with limits for bodily injury or death not less than  
7 those specified in subsection (a) of section 14-112, for the protection of  
8 persons insured thereunder who are legally entitled to recover  
9 damages because of bodily injury, including death resulting therefrom,  
10 from owners or operators of uninsured motor vehicles and  
11 underinsured motor vehicles, and insured motor vehicles, the insurer  
12 of which becomes insolvent prior to payment of such damages, or in  
13 accordance with subparagraph (B) of this subdivision. [because of  
14 bodily injury, including death resulting therefrom.] Each insurer  
15 licensed to write automobile liability insurance in this state shall

16 provide uninsured and underinsured motorists coverage with limits  
 17 requested by any named insured upon payment of the appropriate  
 18 premium, provided each such insurer shall offer such coverage with  
 19 limits that are twice the limits of the bodily injury coverage of the  
 20 policy issued to the named insured. The insured's selection of  
 21 uninsured and underinsured motorist coverage shall apply to all  
 22 subsequent renewals of coverage and to all policies or endorsements  
 23 which extend, change, supersede or replace an existing policy issued to  
 24 the named insured, unless changed in writing by any named insured.  
 25 (A) No insurer shall be required to provide uninsured and  
 26 underinsured motorist coverage to [(A)] (i) a named insured or  
 27 relatives residing in his household when occupying, or struck as a  
 28 pedestrian by, an uninsured or underinsured motor vehicle or a  
 29 motorcycle that is owned by the named insured, or [(B)] (ii) any  
 30 insured occupying an uninsured or underinsured motor vehicle or  
 31 motorcycle that is owned by such insured. (B) Notwithstanding the  
 32 provisions of subparagraph (A) of this subdivision, an insurer shall  
 33 provide uninsured and underinsured motorist coverage to a named  
 34 insured or any relative residing in his household when the named  
 35 insured or relative is struck as a pedestrian by a motor vehicle or a  
 36 motorcycle that is owned by the named insured if the motor vehicle or  
 37 motorcycle is operated without the authorization of the named insured  
 38 and is insured at the time of the unauthorized operation, such  
 39 unauthorized operation causes injury to the named insured or relatives  
 40 residing in his household, and the unauthorized operator does not  
 41 have automobile liability coverage or has automobile liability coverage  
 42 that is less than the applicable limits of liability under the uninsured  
 43 motorist portion of the named insured's policy. The insurer may  
 44 require in the automobile liability insurance policy that, as a condition  
 45 of uninsured and underinsured motorist coverage under this  
 46 subparagraph, the named insured or someone on behalf of the named  
 47 insured (i) report the unauthorized use to the police in the town in  
 48 which the injury occurred within seventy-two hours of the injury, and  
 49 (ii) cooperate with the police in any investigation of such unauthorized  
 50 use.

51 (2) Notwithstanding any provision of this section to the contrary,  
 52 each automobile liability insurance policy issued or renewed on and  
 53 after January 1, 1994, shall provide uninsured and underinsured  
 54 motorist coverage with limits for bodily injury and death equal to  
 55 those purchased to protect against loss resulting from the liability  
 56 imposed by law unless any named insured requests in writing a lesser  
 57 amount, but not less than the limits specified in subsection (a) of  
 58 section 14-112. Such written request shall apply to all subsequent  
 59 renewals of coverage and to all policies or endorsements which extend,  
 60 change, supersede or replace an existing policy issued to the named  
 61 insured, unless changed in writing by any named insured. No such  
 62 written request for a lesser amount shall be effective unless any named  
 63 insured has signed an informed consent form which shall contain: (A)  
 64 An explanation of uninsured and underinsured motorist insurance  
 65 approved by the commissioner; (B) a list of uninsured and  
 66 underinsured motorist coverage options available from the insurer;  
 67 and (C) the premium cost for each of the coverage options available  
 68 from the insurer. Such informed consent form shall contain a heading  
 69 in twelve-point type and shall state: "WHEN YOU SIGN THIS FORM,  
 70 YOU ARE CHOOSING A REDUCED PREMIUM, BUT YOU ARE  
 71 ALSO CHOOSING NOT TO PURCHASE CERTAIN VALUABLE  
 72 COVERAGE WHICH PROTECTS YOU AND YOUR FAMILY. IF YOU  
 73 ARE UNCERTAIN ABOUT HOW THIS DECISION WILL AFFECT  
 74 YOU, YOU SHOULD GET ADVICE FROM YOUR INSURANCE  
 75 AGENT OR ANOTHER QUALIFIED ADVISER."

76 (b) An insurance company shall be obligated to make payment to its  
 77 insured up to the limits of the policy's uninsured and underinsured  
 78 motorist coverage after the limits of liability under all bodily injury  
 79 liability bonds or insurance policies applicable at the time of the  
 80 accident have been exhausted by payment of judgments or settlements,  
 81 but in no event shall the total amount of recovery from all policies,  
 82 including any amount recovered under the insured's uninsured and  
 83 underinsured motorist coverage, exceed the limits of the insured's  
 84 uninsured and underinsured motorist coverage. In no event shall there

85 be any reduction of uninsured or underinsured motorist coverage  
86 limits or benefits payable for amounts received by the insured for  
87 Social Security disability benefits paid or payable pursuant to the  
88 Social Security Act, 42 USC Section 301, et seq. The limitation on the  
89 total amount of recovery from all policies shall not apply to  
90 underinsured motorist conversion coverage purchased pursuant to  
91 section 38a-336a.

92 (c) Each automobile liability insurance policy issued on or after  
93 October 1, 1971, which contains a provision for binding arbitration  
94 shall include a provision for final determination of insurance coverage  
95 in such arbitration proceeding. With respect to any claim submitted to  
96 arbitration on or after October 1, 1983, the arbitration proceeding shall  
97 be conducted by a single arbitrator if the amount in demand is forty  
98 thousand dollars or less or by a panel of three arbitrators if the amount  
99 in demand is more than forty thousand dollars.

100 (d) Regardless of the number of policies issued, vehicles or  
101 premiums shown on a policy, premiums paid, persons covered,  
102 vehicles involved in an accident, or claims made, in no event shall the  
103 limit of liability for uninsured and underinsured motorist coverage  
104 applicable to two or more motor vehicles covered under the same or  
105 separate policies be added together to determine the limit of liability  
106 for such coverage available to an injured person or persons for any one  
107 accident. If a person insured for uninsured and underinsured motorist  
108 coverage is an occupant of a nonowned vehicle covered by a policy  
109 also providing uninsured and underinsured motorist coverage, the  
110 coverage of the occupied vehicle shall be primary and any coverage for  
111 which such person is a named insured shall be secondary. All other  
112 applicable policies shall be excess. The total amount of uninsured and  
113 underinsured motorist coverage recoverable is limited to the highest  
114 amount recoverable under the primary policy, the secondary policy or  
115 any one of the excess policies. The amount paid under the excess  
116 policies shall be apportioned in accordance with the proportion that  
117 the limits of each excess policy bear to the total limits of the excess

118 policies. If any person insured for uninsured and underinsured  
119 motorist coverage is an occupant of an owned vehicle, the uninsured  
120 and underinsured motorist coverage afforded by the policy covering  
121 the vehicle occupied at the time of the accident shall be the only  
122 uninsured and underinsured motorist coverage available.

123 (e) For the purposes of this section, an "underinsured motor vehicle"  
124 means a motor vehicle with respect to which the sum of the limits of  
125 liability under all bodily injury liability bonds and insurance policies  
126 applicable at the time of the accident is less than the applicable limits  
127 of liability under the uninsured motorist portion of the policy against  
128 which claim is made under subsection (b) of this section.

129 (f) Notwithstanding subsection (a) of section 31-284, an employee of  
130 a named insured injured while occupying a covered motor vehicle in  
131 the course of employment shall be covered by such insured's otherwise  
132 applicable uninsured and underinsured motorist coverage.

133 (g) (1) No insurance company doing business in this state may limit  
134 the time within which any suit may be brought against it or any  
135 demand for arbitration on a claim may be made on the uninsured or  
136 underinsured motorist provisions of an automobile liability insurance  
137 policy to a period of less than three years from the date of accident,  
138 provided, in the case of an underinsured motorist claim the insured  
139 may toll any applicable limitation period (A) by notifying such insurer  
140 prior to the expiration of the applicable limitation period, in writing, of  
141 any claim which the insured may have for underinsured motorist  
142 benefits; and (B) by commencing suit or demanding arbitration under  
143 the terms of the policy not more than one hundred eighty days from  
144 the date of exhaustion of the limits of liability under all automobile  
145 bodily injury liability bonds or automobile insurance policies  
146 applicable at the time of the accident by settlements or final judgments  
147 after any appeals.

148 (2) Notwithstanding the provisions of subdivision (1) of this  
149 subsection, in the case of an uninsured motorist claim, if the motor

150 vehicle of a tortfeasor is an uninsured motor vehicle because the  
151 automobile liability insurance company of such tortfeasor becomes  
152 insolvent or denies coverage, no insurance company doing business in  
153 this state may limit the time within which any suit may be brought  
154 against it or any demand for arbitration on a claim may be made on  
155 the uninsured motorist provisions of an automobile liability insurance  
156 policy to a period of less than one year from the date of receipt by the  
157 insured of written notice of such insolvency of, or denial of coverage  
158 by, such automobile liability insurance company.

This act shall take effect as follows and shall amend the following sections:		
---	--	--

Section 1	<i>October 1, 2010</i>	38a-336
-----------	------------------------	---------

***JUD***      *Joint Favorable*

***INS***      *Joint Favorable*